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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bills were introduced in Lok Sabha on 5th December, 2003:—

BILL No. 75 OF 2003

A Bill further to amend the Income-tax Act, 1961, the Wealth-tax Act, 1957 and the Expenditure-tax Act, 1987.

Be it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Taxation Laws (Amendment) Act, 2003.

Short title and commencement.

(2) Save as otherwise provided in this Act, it shall be deemed to have come into force on the 8th day of September, 2003.

CHAPTER II

AMENDMENTS TO THE INCOME-TAX ACT, 1961

43 of 1961.

2. In section 10 of the Income-tax Act, 1961 (hereafter in this Chapter referred to as the Income-tax Act), in clause (15),—

Amendment of section 10.

(A) after sub-clause (*iiia*), the following sub-clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2001, namely:—

"(*iiib*) interest payable to the Nordic Investment Bank, being a multilateral financial institution constituted by the Governments of Denmark, Finland, Iceland, Norway and Sweden, on a loan advanced by it to a project approved by the Central Government in terms of the Memorandum of Understanding entered into by the Central Government with that Bank on the 25th day of November, 1986;";

(B) in sub-clause (*iv*),—

(a) in item (*c*), the existing *Explanation* shall be numbered as *Explanation 1* thereof and after *Explanation 1* as so numbered, the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1962, namely:—

Explanation 2.—For the removal of doubts, it is hereby declared that the usance interest payable outside India by an undertaking engaged in the business of ship-breaking in respect of purchase of a ship from outside India shall be deemed to be the interest payable on a debt incurred in a foreign country in respect of the purchase outside India;";

(b) in the *Explanation 1* occurring below item (*i*), after clause (*d*), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1991, namely:—

"(da) the business of ship-breaking; or".

3. After section 10B of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2004, namely:—

'10BA. (1) Subject to the provisions of this section, a deduction of such profits and gains as are derived by an undertaking from the export out of India of eligible articles or things, shall be allowed from the total income of the assessee:

Provided that where in computing the total income of the undertaking for any assessment year, deduction under section 10A or section 10B has been claimed, the undertaking shall not be entitled to the deduction under this section:

Provided further that no deduction under this section shall be allowed to any undertaking for the assessment year beginning on the 1st day of April, 2010 and subsequent years.

(2) This section applies to any undertaking which fulfils the following conditions, namely:—

(a) it manufactures or produces the eligible articles or things without the use of imported raw materials;

(b) it is not formed by the splitting up, or the reconstruction, of a business already in existence:

Provided that this condition shall not apply in respect of any undertaking which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such undertaking as is referred to in section 33B, in the circumstances and within the period specified in that section;

(c) it is not formed by the transfer to a new business of machinery or plant previously used for any purpose.

Explanation.—The provisions of *Explanation 1* and *Explanation 2* to sub-section (2) of section 80-I shall apply for the purposes of this clause as they apply for the purposes of clause (*ii*) of sub-section (2) of that section;

Insertion of
new section
10BA.
Special
provisions in
respect of
export of
certain articles
or things.

(d) ninety per cent. or more of its sales during the previous year relevant to the assessment year are by way of exports of the eligible articles or things;

(e) it employs twenty or more workers during the previous year in the process of manufacture or production.

(3) This section applies to the undertaking, if the sale proceeds of the eligible articles or things exported out of India are received in or brought into, India by the assessee in convertible foreign exchange, within a period of six months from the end of the previous year or, within such further period as the competent authority may allow in this behalf.

Explanation.—For the purposes of this sub-section, the expression "competent authority" means the Reserve Bank of India or such other authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange.

(4) For the purposes of sub-section (1), the profits derived from export out of India of the eligible articles or things shall be the amount which bears to the profits of the business of the undertaking, the same proportion as the export turnover in respect of such articles or things bears to the total turnover of the business carried on by the undertaking.

(5) The deduction under sub-section (1) shall not be admissible, unless the assessee furnishes in the prescribed form, along with the return of income, the report of an accountant, as defined in the *Explanation* below sub-section (2) of section 288, certifying that the deduction has been correctly claimed in accordance with the provisions of this section.

(6) Notwithstanding anything contained in any other provision of this Act, where a deduction is allowed under this section in computing the total income of the assessee, no deduction shall be allowed under any other section in respect of its export profits.

(7) The provisions of sub-section (8) and sub-section (10) of section 80-IA shall, so far as may be, apply in relation to the undertaking referred to in this section as they apply for the purposes of the undertaking referred to in section 80-IA.

Explanation.—For the purposes of this section,—

(a) "convertible foreign exchange" means foreign exchange which is for the time being treated by the Reserve Bank of India as convertible foreign exchange for the purposes of the Foreign Exchange Management Act, 1999, and any rules made thereunder or any other corresponding law for the time being in force;

(b) "eligible articles or things" means all hand-made articles or things, which are of artistic value and which requires the use of wood as the main raw material;

(c) "export turnover" means the consideration in respect of export by the undertaking of eligible articles or things received in, or brought into, India by the assessee in convertible foreign exchange in accordance with sub-section (3), but does not include freight, telecommunication charges or insurance attributable to the delivery of the articles or things outside India;

(d) "export out of India" shall not include any transaction by way of sale or otherwise, in a shop, emporium or any other establishment situate in India, not involving clearance of any customs station as defined in the Customs Act, 1962.

Amendment of section 115P.

4. In section 115P of the Income-tax Act, for the words "one and one-fourth per cent.", the words "one per cent." shall be substituted.

Amendment of section 115S.

5. In section 115S of the Income-tax Act, for the words "one and one-fourth per cent.", the words "one per cent." shall be substituted.

Amendment of section 132B.

6. In section 132B of the Income-tax Act, in sub-section (4), in clause (a), for the words "eight per cent.", the words "six per cent." shall be substituted.

Amendment of section 158BFA.

7. In section 158BFA of the Income-tax Act, in sub-section (1), for the words "one and one-fourth per cent.", the words "one per cent." shall be substituted.

Amendment of section 201.

8. In section 201 of the Income-tax Act, in sub-section (1A), for the words "fifteen per cent.", the words "twelve per cent." shall be substituted.

Amendment of section 206C.

9. In section 206C of the Income-tax Act,—

(a) in sub-section (1),—

(i) for the Table, the following Table shall be substituted, namely:—

"TABLE

Sl. No.	Nature of goods	Percentage
(1)	(2)	(3)
(i)	Alcoholic liquor for human consumption	One per cent.
(ii)	Tendu leaves	Five per cent.
(iii)	Timber obtained under a forest lease	Two and one-half per cent.
(iv)	Timber obtained by any mode other than under a forest lease	Two and one-half per cent.
(v)	Any other forest produce not being timber or tendu leaves	Two and one-half per cent.
(vi)	Scrap	One per cent. :";

(ii) for the proviso below the Table, the following proviso shall be substituted, namely:—

"Provided that every person, being a seller shall at the time, during the period beginning on the 1st day of June, 2003 and ending on the day immediately preceding the date on which the Taxation Laws (Amendment) Act, 2003 comes into force, of debiting of the amount payable by the buyer to the account of the buyer or of receipt of such amount from the said buyer in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, collect from the buyer of any goods of the nature specified in column (2) of the Table as it stood immediately before the 1st day of June, 2003, a sum equal to the percentage, specified in the corresponding entry in column (3) of the said Table, of such amount as income-tax in accordance with the provisions of this section as they stood immediately before the 1st day of June, 2003.";

(b) after sub-section (1), the following sub-sections shall be inserted, namely:—

"(1A) Notwithstanding anything contained in sub-section (1), no collection of tax shall be made in the case of a buyer, who is resident in India, if such buyer furnishes to the person responsible for collecting tax, a declaration in writing in duplicate in the prescribed form and verified in the prescribed manner to the effect that the goods referred to in column (2) of the aforesaid Table are to be utilised for the purposes of manufacturing, processing or producing articles or things and not for trading purposes.

(1B) The person responsible for collecting tax under this section shall deliver or cause to be delivered to the Chief Commissioner or Commissioner one

copy of the declaration referred to in sub-section (1A) on or before the seventh day of the month next following the month in which the declaration is furnished to him.";

(c) in sub-section (3), for the words "seven days", the words "the prescribed time" shall be substituted;

(d) in sub-section (5), for the words "ten days from the date of debit", the words "such period as may be prescribed from the time of debit" shall be substituted;

(e) in sub-section (7), for the words "one and one-fourth per cent.", the words "one per cent." shall be substituted;

(f) in the *Explanation* occurring at the end, in clause (a), for sub-clauses (i) and (ii), the following sub-clauses shall be substituted, namely:—

"(i) a public sector company, the Central Government, a State Government, and an embassy, a high commission, legation, commission, consulate and the trade representation, of a foreign State and a club; or

(ii) a buyer in the retail sale of such goods purchased by him for personal consumption;".

10. In section 220 of the Income-tax Act, in sub-section (2), for the words "one and one-fourth per cent.", the words "one per cent." shall be substituted.

Amendment
of section 220.

11. In section 230 of the Income-tax Act, in sub-section (2), after the word, brackets and figure "sub-section (1)", the words, brackets, figure and letter "or the first proviso to sub-section (1A)" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 2003.

Amendment
of section
230.

12. In section 234A of the Income-tax Act, in sub-sections (1) and (3), for the words "one and one-fourth per cent.", the words "one per cent." shall be substituted.

Amendment
of section
234A.

13. In section 234B of the Income-tax Act, in sub-sections (1) and (3), for the words "one and one-fourth per cent.", the words "one per cent." shall be substituted.

Amendment
of section
234B.

14. In section 234C of the Income-tax Act, in sub-section (1),—

Amendment
of section
234C.

(i) in clause (a), in sub-clauses (i) and (ii), for the words "one and one-fourth per cent.", the words "one per cent." shall be substituted;

(ii) in clause (b), in sub-clauses (i) and (ii), for the words "one and one-fourth per cent.", the words "one per cent." shall be substituted.

15. In section 234D of the Income-tax Act, in sub-section (1), for the words "two-third per cent.", the words "one-half per cent." shall be substituted.

Amendment
of section
234D.

16. In section 244A of the Income-tax Act, in sub-section (1), in clauses (a) and (b), for the words "two-third per cent.", the words "one-half per cent." shall be substituted.

Amendment
of section
244A.

17. In section 272A of the Income-tax Act, in sub-section (2), after clause (i), the following clause shall be inserted, namely:—

Amendment
of section
272A.

"(j) to deliver or cause to be delivered in due time a copy of the declaration referred to in sub-section (1A) of section 206C,".

18. In the Second Schedule to the Income-tax Act, in rule 68A, in sub-rule (3), for the words "eight per cent.", the words "six per cent." shall be substituted.

Amendment
of Second
Schedule.

CHAPTER III

AMENDMENTS TO THE WEALTH-TAX ACT, 1957

- Amendment of section 17B. **19.** In section 17B of the Wealth-tax Act, 1957 (hereafter in this Chapter referred to as the Wealth-tax Act), in sub-sections (1) and (3), for the words "one and one-fourth per cent.", the words "one per cent." shall be substituted. 27 of 1957.
- Amendment of section 31. **20.** In section 31 of the Wealth-tax Act, in sub-section (2),—
 (a) for the words "one and one-fourth per cent.", the words "one per cent." shall be substituted;
 (b) in the second proviso, for the words "one and one-fourth per cent.", the words "one per cent." shall be substituted;
- Amendment of section 34A. **21.** In section 34A of the Wealth-tax Act,—
 (a) in sub-section (3), for the words "eight per cent.", the words "six per cent." shall be substituted;
 (b) in sub-section (4B), in clause (a), for the words "two-third per cent.", the words "one-half per cent." shall be substituted.

CHAPTER IV

AMENDMENT TO THE EXPENDITURE-TAX ACT, 1987

- Amendment of section 14 of Act 35 of 1987. **22.** In section 14 of the Expenditure-tax Act, 1987, for the words "one and one-fourth per cent.", the words "one per cent." shall be substituted.
- Repeal and saving. **23.** (1) The Taxation Laws (Amendment) Ordinance, 2003 is hereby repealed. Ord. 2 of 2003.
 (2) Notwithstanding such repeal, anything done or any action taken under the Income-tax Act, 1961, the Wealth-tax Act, 1957 and the Expenditure-tax Act, 1987, as amended by the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of those Acts, as amended by this Act. 43 of 1961.
27 of 1957.
35 of 1987.

STATEMENT OF OBJECTS AND REASONS

Certain provisions of the Income-tax Act, 1961 were amended by the Finance Act, 2003. Subsequently, several representations were received from the State Governments and certain trade associations stating that hardship was being faced by the assessees consequent to the amendments. Besides, this references were also received from the Ministry of Finance (Department of Economic Affairs) for giving income-tax exemption to interest payable to the Nordic Investment Bank, being a multilateral financial institution constituted by the Governments of Denmark, Finland, Iceland, Norway and Sweden, on a loan advanced by it to a project approved by the Central Government. Certain trade associations also made certain representations for giving income-tax benefit to all hand-made wood based articles or things.

2. In view of the representations received from the trade associations and references received from the Ministry, it was felt that there was an urgent need to amend the Wealth-tax Act, 1957, the Income-tax Act, 1961 and the Expenditure-tax Act, 1987, *inter alia*, to provide for the following, namely:—

- (a) to exempt from tax, the interest income of the Nordic Investment Bank in respect of the loans advanced by such bank in terms of the Memorandum of Understanding already entered with the Bank to fulfil the commitment made by the Central Government through a Memorandum of Understanding entered into with the Nordic Investment Bank on the 25th day of November, 1986 and the addendum thereto signed on the 18th day of March, 1999;
- (b) to exempt from income-tax, the interest paid by the ship-breaking industry outside India for purchasing a ship from outside India for the purpose of ship-breaking, within the meaning of sub-clause (iv) of clause (15) of section 10 of the Income-tax Act, 1961.
- (c) to provide for a deduction of hundred per cent. of the profits derived from the export of wood based handicraft items keeping in view the unique problem faced by the exporters of such articles;
- (d) to amend section 206C of the Income-tax Act, 1961 so as to reduce the rate of tax collection at source on the alcoholic liquor for human consumption and scrap, timber (whether obtained under a forest lease or a mode other than forest lease) and other forest produce, tendu leaves, and to exclude the Central Government, State Governments, clubs and embassies from the definition of buyers, and also to clarify that collection of tax at source shall be made from buyers at each stage of sale of the specified goods except the last stage where the goods are purchased for personal consumption;
- (e) to reduce interest chargeable from the assessees and interest payable to the assessee under the Income-tax Act, 1961, the Wealth-tax Act, 1957 and the Expenditure-tax Act, 1987 in view of the reduction in the interest rates prevailing in the market so as to remove disparity between the prevailing market rates of interest and the rate of interest granted on refunds or payable by the assessee under various Direct Tax Laws;
- (f) to make a consequential amendment in section 230 of the Income-tax Act, 1961 to clarify that the owners of the aircraft and ship shall be deemed to be assessee in default in certain circumstances.

3. As both Houses of Parliament were not in session and there were circumstances which required immediate action to be taken, the President was pleased to promulgate the Taxation Laws (Amendment) Ordinance, 2003 (Ord. 2 of 2003) on the 8th of September, 2003 to achieve the aforesaid purposes.

4. The Bill seeks to replace the Taxation Laws (Amendment) Ordinance, 2003.

NEW DELHI;

JASWANT SINGH.

The 14th November, 2003.

PRESIDENT'S RECOMMENDATION UNDER ARTICLES 117 AND 274 OF
THE CONSTITUTION OF INDIA

[Copy of letter dated the 27th November, 2003 from Shri Jaswant Singh, Minister of Finance to the Secretary-General, Lok Sabha]

The President, having been informed of the subject matter of the Taxation laws (Amendment) Bill, 2003, has recommended under clause (1) of article 117 and Clause (1) of article 274 of the Constitution of India, the introduction of the Bill in Lok Sabha.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 3 seeks to insert a new section 10BA in the Income-tax Act, 1961 relating to special provisions in respect of export of certain articles or things.

Sub-section (5) of the proposed new section provides that the deduction under sub-section (1) shall not be admissible, unless the assessee furnishes in the prescribed form, along with the return of income, the report of an accountant, as defined in the *Explanation* below sub-section (2) of section 288, certifying that the deduction has been correctly claimed in accordance with the provisions of this section. It is proposed to confer power upon the Central Board of Direct Taxes to specify, by rules, the form and manner in which such report shall be furnished.

2. Clause 9 of the Bill seeks to amend section 206C of the Income-tax Act, 1961 relating to profits and gains from the business of trading in alcoholic liquor, forest produce, scrap, etc.

Sub-clause (b) seeks to insert new sub-sections (1A) and (1B) in the said section to provide that no collection of tax shall be made in the case of a buyer, who is resident in India, if such buyer furnishes to the person responsible for collecting tax, a declaration in writing in duplicate in the prescribed form and verified in the prescribed manner to the effect that the goods referred to in the Table specified in that section are to be utilised for the purposes of manufacturing, processing or producing articles or things and not for trading purposes. It is proposed to confer power upon the Central Board of Direct Taxes to specify, by rules, the form and manner in which such declaration shall be furnished by the said buyer and also the manner in which he shall verify the said form.

Sub-clause (c) seeks to confer power upon the Central Board of Direct Taxes to specify, by rules, the time by which the sum collected shall be paid to the credit of the Central Government.

Sub-clause (d) seeks to provide that every person collecting tax in accordance with the provisions of this section shall, within such period as may be prescribed from the time of debit or receipt of the amount, furnish to the buyer to whose account such amount is debited or from whom such payment is received, a certificate to the effect that tax has been collected, and specifying the sum so collected, the rate at which the tax has been collected and such other particulars as may be prescribed. This sub-clause proposes to confer power upon the Central Board of Direct Taxes to specify, by rules, the time for furnishing a certificate for tax collection at source.

3. The matters in respect of which rules may be made in accordance with the provisions of the Bill are matters of procedure or detail and it is not practicable to provide for them in the Bill itself.

4. The delegation of legislative power is, therefore, of a normal character.

BILL NO. 74 OF 2003

A Bill to provide for the constitution of a National Commission for Children and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows:—

**CHAPTER I
PRELIMINARY**

Short title,
extent and
commencement.

1. (1) This Act may be called the National Commission for Children Act, 2003.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "Chairperson" means the Chairperson of the Commission;

(b) "child rights" includes the rights relating to their survival, protection and development;

(c) "Commission" means the National Commission for Children constituted under section 3;

(d) "Member" means a Member of the Commission and includes the Chairperson;

(e) "notification" means a notification published in the Official Gazette; and

(f) "prescribed" means prescribed by rules made under this Act.

CHAPTER II

THE NATIONAL COMMISSION FOR CHILDREN

3. (1) The Central Government shall, by notification, constitute a body to be known as the National Commission for Children to exercise the powers conferred on, and to perform the functions assigned to it, under this Act.

Constitution
of National
Commission
for Children.

(2) The Commission shall consist of—

(a) a Chairperson who is or has been a Judge of the Supreme Court or a person of eminence who has done outstanding work for promoting the welfare of children;

(b) six members, one each from the following fields, to be appointed by the Central Government from amongst persons of ability, integrity, standing and experience in,—

(i) education;

(ii) child health;

(iii) child care or child welfare or child development;

(iv) juvenile justice or care of neglected or marginalised children or children with disabilities;

(v) elimination of child labour or children in distress; and

(vi) child psychology or sociology.

(3) The office of the Commission shall be at Delhi.

4. The Central Government shall, by notification, appoint the Chairperson and other Members:

Appointment
of Chairperson
and Members.

Provided that no sitting Judge of the Supreme Court shall be appointed as Chairperson except after consultation with the Chief Justice of India.

5. (1) The Chairperson and every Member shall hold office as such for a term of three years from the date on which he enters upon his office:

Term of office
and conditions
of service of
Chairperson
and Members.

Provided that no Chairperson or other Member shall hold office as such after he has attained,—

- (a) in the case of the Chairperson, the age of seventy years; and
- (b) in the case of any other Member, the age of sixty-five years.

(2) The Chairperson or a Member may, by writing under his hand addressed to the Central Government, resign his office at any time.

Removal from office.

6. (1) Subject to the provisions of sub-section (2), the Chairperson shall only be removed from his office by order of the Central Government on the ground of proved misbehaviour or incapacity after the Supreme Court, on reference being made to it by the Central Government, has, on inquiry held in accordance with the procedure prescribed in that behalf by the Supreme Court, reported that the Chairperson ought on any such ground to be removed.

(2) Notwithstanding anything contained in sub-section (1), the Central Government may, by order remove from the office of the Chairperson or any other Member, if the Chairperson or such other Member, as the case may be,—

- (a) is adjudged an insolvent; or
- (b) engages during his term of office in any paid employment outside the duties of his office; or
- (c) is unfit to continue in office by reason of infirmity of mind or body; or
- (d) is of unsound mind and stands so declared by a competent court; or
- (e) has acquired such financial or other interest as is likely to affect prejudicially his functions in office; or
- (f) has so abused his office as to render his continuance in office detrimental to the public interest; or
- (g) is or has been convicted and sentenced to imprisonment for an offence which in the opinion of the Central Government involves moral turpitude.

7. (1) If the Chairperson or a Member, as the case may be,—

- (a) becomes subject to any of the disqualifications mentioned in section 6; or
- (b) is, without obtaining leave of absence from the Commission, absent from its three consecutive meetings; or
- (c) tenders his resignation under sub-section (2) of section 5,

his seat shall thereupon become vacant.

(2) If a casual vacancy occurs in the office of the Chairperson or a Member, whether by reason of his death, resignation or otherwise, such vacancy shall be filled by making fresh appointment in accordance with the provisions of section 4 and the person so appointed shall hold office only for the remainder of the term of office for which the Chairperson, or a Member, as the case may be, in whose place is so appointed would have held that office.

8. **The salary and allowances payable to, and other terms and conditions of service of, the Chairperson and Members, shall be such as may be prescribed:**

Provided that neither the salary and allowances nor other terms and conditions of service of the Chairperson or a Member, as the case may be, shall be varied to his disadvantage after his appointment.

Salary and allowances of Chairperson and Members.

9. No act or proceeding of the Commission shall be invalid merely by reason of—
 (a) any vacancy in, or any defect in the constitution of, the Commission; or
 (b) any defect in the appointment of a person acting as the Chairperson or a Member; or

Vacancies,
etc., not to
invalidate
proceedings
of Commis-
sion.

(c) any irregularity in the procedure of the Commission not affecting the merits of the case.

10. (1) The Commission shall meet at its office at least once in every six months at such time as may be fixed by the Chairperson.

Procedure for
transaction of
business.

(2) All decisions at a meeting shall be taken by majority:

Provided that in the case of equality of votes, the Chairperson, or in his absence the person presiding, shall have and exercise a second or casting vote.

(3) If, for any reason, the Chairperson is unable to attend the meeting of the Commission, any Member chosen by the Members present from amongst themselves at the meeting, shall preside.

(4) The Commission shall observe such rules of procedure in the transaction of its business at a meeting, including the quorum at such meeting, as may be prescribed.

(5) All orders and decisions of the Commission shall be authenticated by the Member-Secretary.

11. (1) The Central Government shall, by notification, appoint a person not below the rank of the Joint Secretary to the Government of India as a Member-Secretary and make available to the Commission such other officers and employees as may be necessary for the efficient performance of its functions.

Member-
Secretary,
officers and
employees of
Commission.

(2) The Member-Secretary shall be responsible for the proper administration of the affairs of the Commission and its day-to-day management and shall exercise and discharge such other powers and perform such other duties as may be prescribed.

(3) The salary and allowances payable to, and the other terms and conditions of service of, the Member-Secretary, other officers and employees, appointed for the purpose of the Commission shall be such as may be prescribed.

12. The administrative expenses including salary, allowances and pensions, payable to the Chairperson, Members, Member-Secretary, other officers and employees of the Commission shall be paid out of the grants referred to in section 14.

Salary and
allowances to
be paid out of
grants.

CHAPTER III

FUNCTIONS AND POWERS OF THE COMMISSION

13. (1) The Commission shall perform all or any of the following functions, namely:—

Functions and
Powers of
Commission.

(a) investigate and examine all matters relating to the safeguards provided for children under the existing laws;

(b) present to the Central Government, annually and at such other intervals as the Commission may deem fit, reports upon the working of those safeguards;

(c) undertake research and periodical review of existing policies, programmes and other activities in respect of children and make recommendations for their best implementation;

(d) inspect or cause to be inspected any juvenile custodial home, or any other place of residence or institution meant for children, under the control of the Central

Government or any State Government or any other authority, including any institution run by a social organisation; where children are detained or lodged for the purpose of treatment, reformation or protection and take up with these authorities for remedial action, if found necessary;

(e) inquire into complaints and take *suo motu* notice of matters relating to—

(i) deprivation of child's rights;

(ii) non-implementation of laws providing for protection and development of children;

(iii) non-compliance of policy decisions, guidelines or instructions aimed at mitigating hardships to and ensuring welfare of children and to provide relief to such children,

or take up the issues arising out of such matters with appropriate authorities; and

(f) any other matter incidental to the above functions.

(2) The Commission shall, while investigating any matter referred to in clause (a) of sub-section (1), have all the powers of a civil court trying a suit and, in particular, in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copy thereof from any court or office; and

(e) issuing commissions for the examination of witnesses and documents.

CHAPTER IV

FINANCE, ACCOUNTS AND AUDIT

Grants by
Central
Government.

14. (1) The Central Government shall, after due appropriation made by Parliament by law in this behalf, pay to the Commission by way of grants such sums of money as the Central Government may think fit for being utilised for the purposes of this Act.

(2) The Commission may spend such sums as it thinks fit for performing the functions under this Act, and such sums shall be treated as expenditure payable out of the grants referred to in sub-section (1).

Accounts and
audit.

15. (1) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed after consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Commission shall be audited by the Comptroller and Auditor-General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Commission to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General or any person appointed by him in connection with the audit of the accounts of the Commission under this Act shall have the same rights and privileges and the authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Commission.

(4) The accounts of the Commission, as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the Central Government by the Commission and the Central Government shall cause the audit report to be laid, as soon as may be after it is received, before each House of Parliament.

CHAPTER V

MISCELLANEOUS

16. No suit or other legal proceeding shall lie against the Central Government, the Commission, the Chairperson or any Member thereof or any person acting under the direction either of the Central Government or the Commission in respect of anything which is in good faith done or intended to be done in pursuance of the provisions of this Act or any rules or any order made thereunder or in respect of the publication by or under the authority of the Central Government or the Commission of any report, paper or proceeding.

Protection of action taken in good faith.

45 of 1860.

17. The Chairperson, every Member, the Member-Secretary, every officer and every employee appointed or authorised by the Commission to exercise functions under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Chairperson, Members and other officers to be public servants.

18. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty:

Power to remove difficulties.

Provided that no such order shall be made after the expiry of the period of two years from the date of commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

19. (1) The Commission shall prepare in such form and at such time, for each financial year, as may be prescribed, its annual report, giving a full account of its activities during the previous financial year and forward a copy thereof to the Central Government.

Annual report.

(2) The Central Government shall cause all the reports referred to in sub-section (1) to be laid before each House of Parliament along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union and the reasons for the non-acceptance, if any, of any of such recommendations.

(3) Where any such report or any part thereof relates to any matter with which any State Government is concerned, the Commission shall forward a copy of such report or part thereof to such State Government who shall cause it to be laid before the Legislature of the State along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for the non-acceptance, if any, of any of such recommendations.

20. (1) The Central Government may, by notification, make rules to carry out the provisions of this Act.

Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the salary and allowances and other terms and conditions of service of the Chairperson and Members under section 8;

(b) the procedure to be followed by the Commission in the transaction of its business at a meeting under sub-section (4) of section 10;

(c) the powers and duties which may be exercised and performed by the Member-Secretary under sub-section (2) of section 11;

(d) the salary and allowances and other terms and conditions of service of officers and other employees under sub-section (3) of section 11; and

(e) the form of the statement of accounts and other records to be prepared by the Commission under sub-section (1) of section 15.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

India has the largest child population in the world. Children's well being is a universal aspiration. The Constitution of India guarantees several rights to the children including equality before law, free and compulsory primary education to all children of the age group of six to fourteen years, prohibition of trafficking in human beings and forced labour, and prohibition of employment of children below the age of fourteen years in factories, mines or hazardous occupations. The Constitution also enables the State to make special provisions for children and directs that the policy of the State should be such that their tender age is not abused. The Government is committed to give children opportunities and facilities to develop in a healthy atmosphere and in conditions of freedom and dignity, and to ensure that their constitutional and legal rights are protected.

2. For quite some time, the need for a National Commission for Children has been articulated by social scientists and non-governmental organisations. The Government has, accordingly, decided to set up this Commission consisting of a Chairperson and six members.

3. The functions of the Commission for Children, *inter alia*, shall be as under:—

- (a) to study and monitor all matters relating to constitutional and legal rights of children;
- (b) to review the existing laws and suggest amendments therein, if considered necessary;
- (c) to look into complaints or take *suo motu* notice of the cases involving violation of constitutional and legal rights of the children; and
- (d) to monitor implementation of laws and programmes relating to the survival, welfare and development of children.

4. The Bill seeks to achieve the aforesaid objects.

NEW DELHI;

The 2nd May, 2003.

MURLI MANOHAR JOSHI.

FINANCIAL MEMORANDUM

Clause 8 of the Bill provides for the salary and allowances of the Chairperson and Members of the National Commission for Children. Sub-clause (3) of clause 11 provides for the salary and allowances of the Member-Secretary, officers and employees in the Commission. Clause 14 provides that after due appropriation made by Parliament, the Commission shall be paid grants by the Central Government.

2. Initially rupees one crore has been provided in the Budget estimates for the financial year 2003-04 of the Department of Women and Child Development of the Ministry of Human Resource Development for the National Commission for Children. Both recurring and non-recurring expenditure, which may be incurred during the financial year 2003-04 shall be met out of this budgetary allocations of rupees one crore.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 20 of the Bill empowers the Central Government to make rules to carry out the provisions of the Bill. Such rules may provide for matters, such as,—

- (a) the salary and allowances and other terms and conditions of service of the Chairperson and Members under section 8;
- (b) the procedure to be followed by the Commission in the transaction of its business at a meeting under sub-section (4) of section 10;
- (c) the powers and duties which may be exercised and performed by the Member-Secretary under sub-section (2) of section 11;
- (d) the salary and allowances and other terms and conditions of service of officers and other employees under sub-section (3) of section 11; and
- (e) the form of the statement of accounts and other records to be prepared by the Commission under sub-section (1) of section 15.

The matters in respect of which rules may be made under the aforesaid provisions are matters of procedure and administrative detail and it is not practical to provide for them in the Bill. The delegation of legislative powers is, therefore, of a normal character.

G. C. MALHOTRA,
Secretary-General.